

COMMITTEE ON LANDS AND BUILDINGS

January 16, 2007

4:30 PM

Chairman Thibault called the meeting to order.

The Clerk called the roll.

Present: Aldermen Thibault, Smith, Forest, Roy, Long
Alderman O'Neil, Alderman Gatsas

Messrs.: Officer J. Rivard, D. Cornell, T. Bowen, R. MacKenzie, T. Arnold

On motion of Alderman Forest, duly seconded by Alderman Long, it was voted to remove item 6 from the table for discussion.

6. Communication from Tom Remillard, Principal of Building Networks LLC, regarding potential clients submitting proposals for cell phone antennas at 223 James Pollock Drive (school property) and Derryfield Park. *(Note: tabled 08/22/2006 pending reports from School and Parks. Parks has referred communication to Fire Department for their review, which is enclosed.)*

Chairman Thibault asked do you have anything that you could bring the Committee up to date with that? What do you want to do with it?

Officer Jody Rivard, Manchester Fire Department, stated I can't speak for the Pollock Drive tower. That's School Department property. The Derryfield Park property is one question. This company Tom Remillard represents, they investigate opportunities to purchase lease agreements from the current owners. We presently have a lease agreement in place through the year 2015 with Verizon Wireless and there's no need for this to go any further with the Derryfield Park tower.

On motion of Alderman Forest, duly seconded by Alderman Long, it was voted to receive and file this communication.

Alderman Forest asked the other one is for the School Department? It has nothing to do with us?

Chairman Thibault stated no, he said they took care of that.

Chairman Thibault asked how about seven. You wanted seven too?

On motion of Alderman Forest, duly seconded by Alderman Long, it was voted to remove item 7 from the table for discussion.

7. Communication from Ms. France Howard requesting to purchase city-owned parcels known as Map 861, Lots 32 & 32A.
Assessors – range of value \$10,400.
Planning – awaiting further information from the Highway Department.
Tax Collector – Map 0861/0032 (\$32.30 in back taxes – not including interests and costs) and Map 0861/0032-A (\$6.69 in back taxes – not including interests and costs).
(Tabled 12/02/2006)

Alderman Forest stated this is in reference to City property that's owned on Phillip Street. Back in May on Mothers Day when we had the flood, Ms. France Howard got pretty well flooded. I mean, she had about three feet of water on her property, right up to her house on three different sides. We have two pieces of property alongside her house. One is forty feet wide. The other is behind that to the south or to the north. It's twenty feet wide. It sort of came up in a meeting between the Mayor and myself, Public Service and other people involved that it would probably not solve Ms. Howard's problem but would alleviate some of it by giving her this added forty feet or twenty feet to the south side of her house, which would give her a place to go if this ever occurred again. I think it was tabled at our last meeting while we were waiting for letters to be sent out to the abutters to see if they wanted it. From what I understand, and Matt or David Cornell, if you would come up, would probably answer that, that letters were sent out to the abutters. They were not interested, and I believe, and I'd like to make a motion because a lot of the Aldermen at the last meeting sort of agreed that if the abutters didn't want it, that because of her situation, we would allow the City to transfer the property to Ms. Howard.

Chairman Thibault asked do you have any problem with that, Dave?

David Cornell, Chairman, Board of Assessors, stated I've spoken with the abutters on the property and they're not interested in it.

Alderman Forest stated so I would make a motion that we sell or give the property to Ms. Howard and set it up with the City Solicitor's office in order to get the legal wording and all that, and transfer the property to her.

Chairman Thibault asked can I get a second to that?

Deputy City Clerk Matthew Normand stated Mr. Chairman, I think we first have to find if the property is surplus and then an amount that you want to...

Chairman Thibault stated then we'd have to go to Planning.

On motion of Alderman Forest, duly seconded by Alderman Long it was voted to declare the property surplus.

Alderman Forest stated and the second motion I would make is to transfer the property to Ms. Howard at no cost.

Alderman Smith stated I think the Assessors put a value on the land, \$10,400. Is that correct?

Alderman Forest stated neither lot is buildable, by the way, Aldermen.

Alderman Smith stated they're still taxable though.

Mr. Cornell stated that is correct, Alderman. We did place a value of \$10,400 on the property.

Chairman Thibault asked for her to buy it? Is that what we're saying here?

Mr. Cornell stated that is correct.

Alderman Forest stated I'm still making the same motion.

Chairman Thibault stated all right. Can I get a second?

Mr. Thomas Arnold, Deputy City Solicitor, stated if I may, gentlemen, I have some serious considerations about this Committee recommending just a plain give-away of public property. Typically, what we have said in the past is that we

need to get somewhere around the fair market value, understanding that that figure may not be precisely determinable. Again, I have serious reservations about just giving away City property.

Alderman Forest stated Mr. Chairman, I would like to put it back on the table for now while the City Solicitor works out some legalities on this.

On motion of Alderman Forest, duly seconded by Alderman Roy, it was voted to retable item #7.

Chairman Thibault addressed item 3 of the agenda:

3. Communication from Thomas Bowen, Water Works Director, advising that the Board of Water Commissioners has conceptually approved placing a conservation easement on a 460-acre parcel of land in the Town of Auburn identified as Battery Point and surrounding the Educational Center operated by the Audubon Society of NH.

Chairman Thibault asked Tom, do you want to give a little history on that so the Committee can be aware of what is happening one hundred percent here?

Mr. Thomas Bowen, Water Department Director, stated sure. I appreciate the opportunity to address the Board this evening. Maybe before we get into the details of the project that we have in the works, maybe just give a little bit of background. The Water Works own some 8,000 acres of land, of which about 7,300 acres is located out of town. The property is there for watershed protection purposes, primarily along the shores of Lake Massabesic and along the supply streams and wetlands that feed into the lake. It is protected by a number of State laws, local ordinances and so forth, as well as our own regulations and New Hampshire DES regulations. However, there are no conservation easements per se on the property. So the property, at any time could be, if it was the desire of the Water Works to declare it surplus and the desire of this Board, legally sold. Over the years the value of the property has begun to increase and we have been looking at ways of doing two things. First of all, guaranteeing that the property remains in its current natural state, which to the Water Works is the primary interest. And secondly, that we find a means of providing some relief from the taxes that have begun to creep up over the years, the property taxes. So, we've been in-house talking with our own staff, the City Solicitor's office, as well as outside counsel about different avenues that were available to us to meet those two needs. And the one that seemed to fit the best for the department was to place some of the property into a conservation easement. The map and so forth, the information we

provided, and I'll maybe just, for those of you that may not be familiar with the location of the parcel, the top corner...the property that's shaded here is Battery Point, and in the upper left-hand corner is Chester Turnpike, which is the road that leads from the Auburn Lake Massabesic traffic circle to the town of Derry. And the road narrows and the land narrows at Battery Point and Deerneck Bridge. And this 460 acre parcel is land that surrounds the Audubon Society property and their educational center. So, we have been dealing with the Society for the Protection of New Hampshire Forests and we have a conceptual agreement by their board and a conceptual agreement by the Board of Water Commissioners, to enter into a conservation easement for the property. We believe that it's going to be most beneficial to, not only the preservation of the land, but we think there will also be some financial benefit to the customers of the Manchester Water Works in that the property value for that, by placing a conservation easement on it, will be reduced so that we'll be able to, over the years, realize some savings for our customers by placing a conservation easement on the property.

Alderman Roy asked Tom, what is the amount of taxes being paid on that 460 acres right now?

Mr. Bowen responded that parcel is \$111,000 a year.

Alderman Roy asked and your total revenues at Water Works...what percent of...

Mr. Bowen responded our total revenues are \$13 million.

Alderman Smith stated Tom, I think it's a good deal because your protecting our plan for the lake, but how are you going to communicate with the Town of Auburn? I think that's going to be a difficult situation, even though you have an agreement with the Forest Society and yourself.

Mr. Bowen stated we have had a meeting with the Town of Auburn about a week, week and a half ago, at which we went over our plans. And our plans are to do this as an initial step, make sure that everything is covered all the bugs are worked out of the process and the procedure, and then to proceed on with other parcels. And what we offered to the town was to work with them on subsequent phases, such that if either their selectmen's office and/ or the conservation commission in the town had priorities of property that they wanted to see placed in conservation, or a schedule under which they would like to see that done. We told them that we'd be willing to work with them and do it so that there was not a large impact on the town, doing it all at one time. And it's not our desire to do it all at one time either.

Alderman Smith said so you're really just looking for confirmation from our Board, for approval just to proceed with negotiations with the parties involved.

Mr. Bowen stated basically, we realize that we're going to have to come back to the Board for formal approval once the documents themselves have been negotiated between ourselves and the Forest Society. We have a draft of that document, but it's nowhere near in final form, and I didn't believe it would be appropriate at this time. But there is going to be some time sensitivity on this. Once the process begins to move forward, we are going to have to move forward pretty quickly because it has to be done, in order for us to realize any benefit during this tax year, it has to be done during the month of March or before the end of March. So, once the agreement is done, it's got to go to their board, it's got to go to the Water Board and then it's got to go through the Lands and Buildings Committee and the full Board. So we're making sure everybody is up to speed, understands the concept, and then we'll get into the details of the specifics of the negotiation.

On motion of Alderman Smith, duly seconded by Alderman Roy it was voted to accept and file this communication.

Chairman Thibault addressed item 4 of the agenda:

4. Communication from Robert MacKenzie, Director of Planning & Community Development, advising that in order to proceed with disposition of certain properties the City owns on Wellington Hill two actions are required:
 - a) determination of surplus to City needs; and
 - b) approval of an agreement with the Diocese on the manner of disposition and the division of proceeds.
- other actions required to include:
- c) release and discharge of all paper streets; and
 - d) potential rezoning of the area.

Mr. Robert MacKenzie, Director of Planning, stated I know we briefed this Committee earlier about the purpose of this. This is an area that has a lot of scattered, small lots, and frankly, they could not be sold without cooperating with the other major landowner in this area. So we believe it's reasonable to determine the surplus and work with the Diocese in terms of reaching an agreement for the sale of the entire parcel. There are a couple other smaller property owners in that

area as well, but they have been contacted and would be willing to participate in this. Again, it's best to have all the property owners participate. So there will be two actions we will be asking of this Committee. That is, to determine the property surplus and the second would be to approve an agreement with the Diocese that we have attached. We have reviewed this and basically the sale of the property will be in one large parcel, and we would get money back in proportion to how much acreage we own currently out of all those. There will be a couple other actions that would likely be required. Those would be other committees and we would wait for this Committee to take the first main action. That would be to release and discharge all of the old paper streets that are in that area. They're unbuilt; they're paper. And then to potentially look at rezoning of the property. We had originally thought about looking at rezoning it to multi-family since it's directly adjacent to Fox Hollow. In discussions with the Ward Alderman, Alderman Gatsas, he did have reservations and I think the neighbors had reservations about multi-family. Right now it's low density, single-family, R-1A. So we'll probably bring something in that would be medium density, single-family, R-1B. We're also looking at perhaps having a small area adjacent to Fox Hollow that would be two-family. Right now in the City we have no lots left that allow duplexes, so that's an option and we'd still like to talk to Alderman Gatsas a little more about that. But that's not for action tonight. Tonight we'd be looking at one, determination of surplus and second, approval of the agreement.

Chairman Thibault asked can we get a motion on making it surplus?

Alderman Smith stated in all fairness to my colleague from Ward 2, I can't vote for this because it's potential rezoning. I believe it should be single-family. It's a really compact area. It's impacted. It will affect the schools. There's only one way in and one way out right now. And I can't in all conscience vote for this when I know that rezoning is going to come up. So if you can guarantee me it will be single-family, I would consider it.

Mr. MacKenzie stated again, I think we concluded that multi-family is not going to work on the area. It's likely the best zoning would be R-1B, which is medium density, single-family. If the Committee does not want us to look further at a portion being R-2, which is duplexes, then we would just proceed with the rezoning to R-1B, which is single-family.

Chairman Thibault asked are you all right with that, Alderman Ten?

Alderman Smith responded not exactly. Yes or no, single-family?

Mr. MacKenzie stated if the Committee as a whole wants us to look at just single-family, we will do that.

Chairman Thibault asked can we get a motion to that effect?

There was no response.

Chairman Thibault asked can we get a vote on it then?

There was no response.

Chairman Thibault asked so what are you going to do? Are you going to table it or what are you going to do?

Alderman Roy stated Bob, your concerns regarding density. We had a conversation earlier about your vision of the City. When you look at this area in the 39 acres, what do you foresee the highest and best use of this property?

Mr. MacKenzie stated the highest and best use, I think, is residential and it would be either the two abutting areas that have been developed are either RSM, which is multi-family, or R-1B, which is single-family. Right now it's R-1A, and that's not consistent with what has developed on the rest of the hill. So if, and I think we've concluded that we perhaps should not rezone it multi-family, then I think most appropriately for the land use, it should be R-1B then, because that's consistent with the area. If you remember the single-family homes that were built that wrap around the hill, that's an R-1B area, so I would probably suggest if multi-family is not an issue, then we look at R-1B zoning because that's consistent with what has been developed up there.

Alderman Roy stated just for those people watching at home and those who don't have their zoning books with them, what are the guidelines for R-1B?

Mr. MacKenzie stated R-1B guideline, the main guideline is that you can build on 7,500 square foot lots. That is the minimum, but typically in an area like this where there's a little...you know, there's some wetlands, there's ledge outcroppings, they average more than that. But that's the minimum, 7,500. Right now it's R-1A and the minimum is 12,500 square feet.

Alderman Roy stated okay, so just to be clear, this neighborhood at R-1B would look closer to the single-family, residential on Wellington Hill versus Currier Drive, which is also in that neighborhood.

Mr. MacKenzie stated yes.

Alderman Forest stated we're not voting on rezoning or discharge of paperwork at this committee level, correct?

Mr. MacKenzie stated that's correct.

Alderman Forest stated you're only asking us to vote on items a) and b).

Mr. MacKenzie stated correct.

Alderman Forest stated so therefore I'll restate what I said, move the question. I'll make the motion that we do items a) and b).

Alderman Smith stated I'm not going to second it. I'd like to discuss the motion. With the potential 39 acres, how many buildable lots would there be? Tell me if they are single-family homes, if you can give me a ballpark figure as to how many homes would be built up in that area?

Mr. MacKenzie stated I think we had actually looked at a sketch plan that was about 130 lots at R-1B. It would be more than double that if it was multi-family, RSM, as it is next door at Fox Hollow. So it would be a significantly higher, number of units, if it was multi-family.

Alderman Smith stated we'd probably have to build a fire station up there.

Chairman Thibault stated okay so we've got a motion by Twelve. Any second?

The motion was seconded by Alderman Roy.

Alderman O'Neil stated before you vote, Mr. Chairman, I don't know if others want to speak, but I'd like to speak. I'm not here to talk about the specific action of the Committee, but over the years the City has dealt with responsible businesses and organizations. In my heart, to date, the Diocese has been irresponsible with another piece of property in the City of Manchester and that's St. Anne's Church. I can't, as an elected official, and I don't have a vote today but I will have a vote at some point on this deal, support this deal until they become responsible with other pieces of property they have. It seems when there's an opportunity to make significant money, as we saw on Gold Street, as we see here, there's a willingness for the Diocese to sit down and work out deals. If this was an irresponsible bar owner or landowner, would the City be partnering with them? I think not. The Diocese failed to act responsibly with regards to St. Anne's. To me, it's a slap at

the Irish immigrants who built St. Anne's, the French Canadians who followed, and the current immigrants of today who make up St. Anne's. I do not believe, until the Diocese addresses items at St. Anne's, before that building falls down, that the City should move forward with any deal. Thank you for allowing me the time, Mr. Chairman.

Chairman Thibault called for a vote on the motion. The motion failed, being opposed by Aldermen Long, Smith and Thibault.

Alderman Smith stated I'd like to take off... I don't know where the situation is at Edna and Claire Street. It was waiting response from the Highway Department, and I believe there's a pumping station on...

On motion of Alderman Roy, duly seconded by Alderman Long, it was voted to remove item 8 from the table for discussion.

8. Communication from Attorney Craighead, on behalf of Albert Delacey, requesting to purchase city-owned parcel abutting property located at Edna & Claire Streets.

Assessors – range of value \$9,000 (rounded)

Planning – awaiting response from Highway Department concerning ownership and rights-of-way matters.

Tax Collector – no interest as it is not a tax-deeded parcel.

Alderman Smith stated from what I understand, there's a pumping station on a property, and I don't know if anybody is here from Highway or if anybody knows the situation, but I would think that the land wouldn't be available if we have sewer easement rights and a pumping station on a property.

Chairman Thibault stated Robert, you're back.

Mr. MacKenzie stated yes, I do know that the pumping station is no longer there. There is an easement there that would have to be maintained, but they were not, as I understand, proposing any construction on it. It does abut another property owner, and as such, we did write to them and request to see if they would have any interest. So we are waiting to hear back from the other abutter.

Chairman Thibault asked so should be just leave it on the table until we hear...

Alderman Smith responded I would suggest that.

On motion of Alderman Smith, duly seconded by Alderman Long, it was voted to retable item 8.

Alderman Roy stated, Mr. MacKenzie, the last vote we just took on number four, in opposition, if certain parameters or concerns of this Aldermanic Board were addressed, I think you may find a more favorable outcome. I think Alderman Two has put a lot of work into this and I think it would be of benefit to the City, so I would ask that responsible property owners take care of situations and come back to us.

Mr. MacKenzie stated okay, but at this point now, I'm not going to proceed any further until I hear from the Committee Chairman.

Chairman Thibault stated could I just say this if I might, Bob. Wouldn't it be wise, at this point, to maybe have the Church get a hold of Alderman O'Neil and see if they can work out their problem?

Mr. MacKenzie stated I do not have an issue with it. I think Alderman O'Neil has spoken with the Diocese before on that issue.

Chairman Thibault stated okay, so where do you want to leave it? Do you want to leave it right there?

Alderman Smith stated my concern, Mr. Chairman, is single-family...if he can guarantee single-family...as it is now, it's 130 lots times three people. They have to go to school, and so forth. So if you can guarantee single-family lots, I'm sure that I'll go along with it. I don't know about Mr. Gatsas, but it's highly saturated up there. If you know the area, it's one way in and one way out. It's a difficult situation up there.

Chairman Thibault stated, Alderman Gatsas, would you like to add a few words to this, if you would.

Alderman Gatsas stated I think it's clear that the zoning is R-1A. The density would allow for about 130 units on the R-1A. I think that the single-family residential other than the A would allow the density to be much greater, somewhere around 210 to 230 units, if my math is right, because you can get about seven lots, or maybe six, to an acre, at 7,500 square feet. And six times 40...and that's again if you could use every single square foot that's up there, which would give you about 240 units, residential, if every square foot could be used.

Mr. MacKenzie stated we did actually start to look at...because it's tough to do a calculation until you really look at the land and see how it would subdivide and see how the streets would go. The reality is that under R-1A, which it is right now, you're probably talking about 90 lots; and under R-1B it's probably 130 to 140. If you actually lay out these, because there's wetlands, there's ledge in that area. And we compared it against a lot of the other subdivisions that we've had in the City, as to what reasonably happens.

Alderman Gatsas asked do you have a written, signed agreement from every property owner that's within that 39 acre tract?

Mr. MacKenzie responded I know the Diocese indicated that they had someone contact all the other property owners and that they agreed to this, yes.

Alderman Gatsas asked are those agreements in writing?

Mr. MacKenzie responded I do not know.

Alderman Gatsas stated because I'd hate to see somebody sitting in the middle of that, we discontinue streets, and all of a sudden a 200 by 100 lot, somebody's looking for a million bucks for it, or they won't allow the deal to go forward. I guess my biggest question first would be, Does everybody have a signed agreement from everybody that says they'll participate in the same parameters that you've laid out to this Board, that the City and the Diocese would do? And if not, I'd certainly have first blush at that, taking a look at it and saying, Somebody could hold this project up and there's nothing we can do with them. Because we certainly can't take it by eminent domain with the Constitutional Amendment that was just passed. So, I guess that's my first question. My second question, if it stayed R-1A, and there was 90 houses on those 39 acres, I guess the Aldermen would not be opposed to it. But I guess they certainly would want to see the impact on the School District. And that's Smyth Road School, or do they go to Weston there?

Mr. MacKenzie stated that would be Weston.

Alderman Gatsas stated they certainly would want to see what the impact of 90 new houses on Weston School would be.

Alderman Roy stated I guess a quick question for the Solicitor. The motion made was to work on a) and b), and that met with disapproval from the Board. Could a motion to table item #4 still be made, since it's just kind of lingering out there?

Deputy City Solicitor Arnold stated yes, I believe you could.

Alderman Roy stated but right now item #4 is still there on our agenda with no action being taken.

Deputy City Solicitor Arnold stated other than the failure of the recommendation.

Alderman Roy stated so a motion to table...

Chairman Thibault stated before you do that, are we all set with that. This was voted down 3-2. We could make a motion to table?

Deputy City Solicitor Arnold stated you can make another motion, sure.

Alderman Roy stated I think there's information that's left out there and things that need to be accomplished in order for this to be...

Chairman Thibault stated but then it would have to come back to this Committee. Okay, go ahead.

Alderman Roy stated I'd like to keep it at least as a tabled item and maybe accomplish what everybody is looking to accomplish.

On motion of Alderman Roy, duly seconded by Alderman Long, it was voted to table this item. Alderman Smith was recorded in opposition.

TABLED ITEM

5. Communication from Mayor Guinta requesting staff prepare recommendations relating to placing out to competitive/sealed bid parcels located on Granite Street, Phillippe Cote Way and Seal Tanning parking lot as requested by David Brady of Brady-Sullivan.
(Note: tabled 08/22/2006. Previous reports enclosed for informational purposes.)

This item remained tabled.

There being no further business, on motion of Alderman Long, duly seconded by Alderman Forest, it was voted to adjourn.

A True Record. Attest.

Clerk of Committee